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7
8 Attorneys for Creditor,
9 RACHEL KUECHLE

10
11 **UNITED STATES BANKRUPTCY COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 In re
14 **EVANDER FRANK KANE,**
15
16 Debtor.

Case No. 21-50028-SLJ-7

Chapter 7

R.S. No. MF-1

17 **DECLARATION OF SAMUEL J. CAPIZZI IN**
18 **SUPPORT OF RACHEL KUECHLE'S**
19 **MOTION FOR LIMITED RELIEF FROM**
20 **THE AUTOMATIC STAY**

Date: November 9, 2021

Time: 10:00 a.m.

Place: Via Zoom Video Conference

Honorable Stephen L. Johnson

21 I, Samuel J. Capizzi, declare:

22 1. I am a partner with Collins & Collins Attorneys, LLC, a law firm based in the State of
23 New York and counsel of record for Rachel Kuechle, Plaintiff in that certain civil action commenced
24 on July 1, 2016, and now pending before the State of New York Supreme Court, County of Erie, as
25 *Kuechle v. Kane*, Index No. 807030/2016 (the "Litigation"). I am over the age of eighteen. The
26 following facts are true and correct of my own knowledge. If called as a witness, I could and would
27 competently testify as follows.

28 2. I am an attorney duly licensed and admitted to practice before the court of the State of
New York, in good standing, since January 12, 1989 (NY SBN 2242741). I am a member of the
American Association of Justice, the American Board of Trial Advocates, the Million Dollar

1 Advocates Forum, the Best Lawyers in America, the New York State Trial Lawyers Association, the
2 New York State Bar Association, the New York State Bar Association Pro Bono Appeals Panel and
3 the Erie County Bar Association. I have extensive experience litigating large and complex personal
4 injury cases, including construction accidents, automobile accidents, railroad injuries, premises
5 liability, product liability and commercial claims. I have handled several appeals, including an
6 appeal to the Court of Appeals in Albany, which is the highest court in the State of New York.

7 3. I am familiar with the pleadings and papers that have been filed in the Litigation, the
8 procedural status of the Litigation and the causes of action and issues raised in the Litigation.

9 4. All potential witnesses and evidence that I know of are in the State of New York.

10 5. Without waiving any rights with respect to further discovery, factual discovery in the
11 Litigation is nearly complete. Specifically, all factual and documentary discovery has been
12 completed, and the only potential discovery remaining is updating medical records discovery.

13 6. Significant motions and other activities have been completed in the Litigation.

14 7. Aside from possible pretrial motions, the only substantial task remaining in the
15 Litigation is to hold a trial by jury on factual issues.

16 8. Were it able to proceed on the claim for negligent injury, it is my opinion that the
17 Litigation would be ready for trial in approximately 3 to 6 months.

18 I declare that the foregoing is true and accurate under penalty of perjury under the laws of the
19 United States of America. Executed this 15th day of October, 2021, at Buffalo, New York.

20 /s/ Samuel J. Capizzi
21 SAMUEL J. CAPIZZI, Esq.
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